IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

REVIEW APPLICATION NO. 3280 OF 1990

IN

FIRST APPEAL NO. 1006 OF 1988

The State of Maharashtra ..Appellants

versus

Kondiba M. Kate & Ors. ..Respondents

Mr. S. N. Gawade, AGP for the Appellants.
Mr. V. Bodke i/b. M/s. Chitnis Vaithy & Co. for the Respondents.

CORAM : D. G. DESHPANDE,J.

DATE : 20TH JULY,2005

ORAL ORDER :

1. This review application is filed by the State for reviewing the order dated 8.12.1988. Counsel for the respondents have no objection for taking Review Application for hearing. Therefore, Review Application is taken up for hearing.

2. The only grievance of the State is that in view of the Judgment of the Supreme Court reported in **AIR 2002 Supreme Court 1105 Kashiben Bhikabai vs.**

Special Land Acquisition Officer, the additional compensation cannot be awarded if the Collector made an award before 30.4.1982. This appeal of the State came to be dismissed by this court summarily on 8.12.1988 and the Review Application is filed in respect of the said order. The appeal was filed by the State against the Judgment of Extra Joint District Judge, Pune on 4.9.1987 in Reference under the Land Acquisition Act where apart from awarding 30% solatium on the market value, the reference court also awarded 12% interest on the amount of market value fixed by the SLAO from the date of notification under Section 4 till the passing of the Award.

3. It is this second part of the order of the reference court that is sought to be challenged in the Review Application on the basis of the said judgment of the Supreme Court. Counsel for the respondents fairly concedes that proposition of law set forth by the AGP on the basis of this Judgment of this Supreme Court, is correct and that part of the order of the Reference court regarding awarding of 12% interest is not legal and proper.

4. In view of this, application is allowed. The order of dismissal is set aside. The appeal is partly allowed. Judgment of the Extra Joint

District Judge, Pune dated 4.9.1987 is modified and the order of payment of 12% interest on the amount of market value fixed by the SLAO from the date of notification under Section 4 of the Act till passing of the award by SLAO, is quashed and set aside. No order as to costs. Application disposed of accordingly. Certified copy expedited.

20.7.2005 (D.G. DESHPANDE,J.)